

EXHIBIT 7

Paladino, Tyler

From: Peter Bach-y-Rita <pbachyrita@fnf.law>
Sent: Wednesday, April 05, 2023 8:56 PM
To: Mleczko, Monica; Richard Cipolla; aellington@gilbertlitigators.com
Cc: Musallam, Samer; Park, Chong; Bushofsky, Jeffrey J.; McInerney, Elizabeth (Tolon); Hovie, Logan; Brambila, Nicole; Paladino, Tyler; 568 Litigation; 568 _litigation@gilbertlitigators.com
Subject: Re: Henry v. Brown Univ. et al. (N.D. Ill. No. 22-cv-00125) - Plaintiffs' Motion to Compel as to Johns Hopkins

[EXTERNAL]

Monica,

In our meet and confer, I explained the difficulty with asking Plaintiffs to describe how JHU should conduct its go-gets, given that Plaintiffs have limited visibility into what documents exist, and in light of Defendants' obligation to conduct a reasonable search.

As for April 30, the relief we seek from the Court is for JHU now to produce the documents response to these RFPs. The April 30 deadline, compared to that requested relief, stands to be more forgiving. Having engaged in these meet-and-confer, moreover, we have reasonably concluded that JHU (like other Defendants) faces no undue burden in meeting this particular deadline, and that the deadline is reasonably designed to permit Plaintiffs time to review the produced documents in time for the many prospective depositions in this case.

Regards,

Peter Bach-y-Rita

Associate

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From: Mleczko, Monica <Monica.Mleczko@ropesgray.com>
Date: Wednesday, April 5, 2023 at 3:50 PM
To: Peter Bach-y-Rita <pbachyrita@fnf.law>, Richard Cipolla <rcipolla@fnf.law>, aellington@gilbertlitigators.com <aellington@gilbertlitigators.com>
Cc: Musallam, Samer <Samer.Musallam@ropesgray.com>, Park, Chong <Chong.Park@ropesgray.com>, Bushofsky, Jeffrey J. <Jeffrey.Bushofsky@ropesgray.com>, McInerney, Elizabeth (Tolon) <Elizabeth.McInerney@ropesgray.com>, Hovie, Logan <Logan.Hovie@ropesgray.com>, Brambila, Nicole <Nicole.Brambila@ropesgray.com>, Paladino, Tyler <Tyler.Paladino@ropesgray.com>, 568 Litigation <568_Litigation@fnf.law>, 568_litigation@gilbertlitigators.com <568_litigation@gilbertlitigators.com>

Subject: RE: Henry v. Brown Univ. et al. (N.D. Ill. No. 22-cv-00125) - Plaintiffs' Motion to Compel as to Johns Hopkins

[EXTERNAL SENDER]

Peter,

We are disappointed to learn from your email that Plaintiffs believe any dispute remains as to Johns Hopkins and surprised as to why Plaintiffs are raising – for the first time – an issue that is beyond the motion to compel. During our meet-and-confer, we understood and you specifically acknowledged that RFPs requesting “all documents,” which includes First Set RFPs 128, 129, 131, and 3rd Set 11, were not conducive to go-gets. Moreover, these RFPs are duplicative and redundant of RFPs 58, 80, and 130, which Johns Hopkins ran search terms for and Plaintiffs have not identified anything unique to these requests not covered by prior ones. Nevertheless, we proposed that Plaintiffs let us know what targeted go-gets would satisfy those requests. In essence, Johns Hopkins is providing Plaintiffs with an opportunity to reformulate a targeted request to Johns Hopkins. This is hardly an attempt to shift the burden, but rather an attempt to resolve the “dispute.” We are struggling to understand Plaintiffs’ issue with this approach.

Moreover, as a condition of withdrawing the motion, you now make a demand never raised by the relief you requested from the Court in the motion to compel. We are struggling to understand why, only hours before we have to file our opposition brief, you are raising a demand that is outside the scope of the motion to compel and that you never raised at our meet-and-confer. Despite a productive meet-and-confer, from which Johns Hopkins walked away believing we had resolved all disputes raised by your motion, your latest email leaves us no choice but to oppose Plaintiffs’ Motion to Compel today.

Best,
Monica

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From: Peter Bach-y-Rita <pbachyrita@fnf.law>
Sent: Wednesday, April 05, 2023 2:45 PM
To: Mleczo, Monica <Monica.Mleczo@ropesgray.com>; Richard Cipolla <rcipolla@fnf.law>; aellington@gilbertlitigators.com
Cc: Musallam, Samer <Samer.Musallam@ropesgray.com>; Park, Chong <Chong.Park@ropesgray.com>; Bushofsky, Jeffrey J. <Jeffrey.Bushofsky@ropesgray.com>; McInerney, Elizabeth (Tolon) <Elizabeth.McInerney@ropesgray.com>; Hovie, Logan <Logan.Hovie@ropesgray.com>; Brambila, Nicole <Nicole.Brambila@ropesgray.com>; Paladino, Tyler <Tyler.Paladino@ropesgray.com>; 568 Litigation <568_Litigation@fnf.law>; 568_Litigation@gilbertlitigators.com
Subject: Re: Henry v. Brown Univ. et al. (N.D. Ill. No. 22-cv-00125) - Plaintiffs' Motion to Compel as to Johns Hopkins

Monica,

Regarding RFPs 128, 129, 131, and 3rd Set 11, it appears that JHU’s position is that it will consider go-gets that Plaintiffs propose. We disagree that this burden should be shifted back onto Plaintiffs. We are prepared to withdraw the motion as to JHU if you can confirm that (a) JHU will undertake reasonable go-gets in response to those RFPs, and (b) JHU will

produce all documents in response to the First Set of RFPs by April 30. Plaintiffs reserve their arguments and rights as to searches for and production of documents from the President's and Development Offices, as well as to Defendants' obligations to conduct reasonable searches beyond use of search terms.

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From: Mleczo, Monica <Monica.Mleczo@ropesgray.com>

Date: Wednesday, April 5, 2023 at 6:20 AM

To: Peter Bach-y-Rita <pbachyrita@fnf.law>, Richard Cipolla <rcipolla@fnf.law>, aellington@gilbertlitigators.com <aellington@gilbertlitigators.com>

Cc: Musallam, Samer <Samer.Musallam@ropesgray.com>, Park, Chong <Chong.Park@ropesgray.com>, Bushofsky, Jeffrey J. <Jeffrey.Bushofsky@ropesgray.com>, McInerney, Elizabeth (Tolon) <Elizabeth.McInerney@ropesgray.com>, Hovie, Logan <Logan.Hovie@ropesgray.com>, Brambila, Nicole <Nicole.Brambila@ropesgray.com>, Paladino, Tyler <Tyler.Paladino@ropesgray.com>, 568 Litigation <568_Litigation@fnf.law>, 568_Litigation@gilbertlitigators.com <568_litigation@gilbertlitigators.com>

Subject: RE: Henry v. Brown Univ. et al. (N.D. Ill. No. 22-cv-00125) - Plaintiffs' Motion to Compel as to Johns Hopkins

[EXTERNAL SENDER]

Peter – we just wanted to follow-up to confirm that based on the below, Plaintiffs are withdrawing the motion to compel as to Johns Hopkins.

Thanks,
Monica

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From: Mleczo, Monica <Monica.Mleczo@ropesgray.com>

Sent: Tuesday, April 04, 2023 6:18 PM

To: Peter Bach-y-Rita <pbachyrita@fnf.law>; Richard Cipolla <rcipolla@fnf.law>; aellington@gilbertlitigators.com

Cc: Musallam, Samer <Samer.Musallam@ropesgray.com>; Park, Chong <Chong.Park@ropesgray.com>; Bushofsky, Jeffrey J. <Jeffrey.Bushofsky@ropesgray.com>; McInerney, Elizabeth (Tolon) <Elizabeth.McInerney@ropesgray.com>; Hovie, Logan <Logan.Hovie@ropesgray.com>; Brambila, Nicole <Nicole.Brambila@ropesgray.com>; Paladino, Tyler <Tyler.Paladino@ropesgray.com>; 568 Litigation <568.Litigation@fnf.law>; 568.Litigation@gilbertlitigators.com
Subject: RE: Henry v. Brown Univ. et al. (N.D. Ill. No. 22-cv-00125) - Plaintiffs' Motion to Compel as to Johns Hopkins

Peter,

Thanks for your email. Please see our additions to your notes on our meet-and-confer below (in red)—we believe our understanding is consistent with yours. Also, Johns Hopkins has substantially completed its productions with the exception of documents that are being reviewed and redacted for FERPA and privilege, which Johns Hopkins is working diligently to complete. Please confirm that Plaintiffs are withdrawing the motion to compel as to Johns Hopkins.

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Monica,

Thank you for the meet and confer this morning. This email confirms that Plaintiffs will withdraw the motion to compel as to JHU; provided that you confirm that JHU has, or when it intends, to complete substantial production. I have provided some notes on the call and look forward to your input/additions:

RFP 20 – JHU will identify the deans list in the production so that Plaintiffs can evaluate the adequacy of the extant JHU custodian relating to donors. In the meantime, we can take this RFP off the table for purposes of the motion to compel.

Johns Hopkins confirms that to the extent a “deans list” exists, Johns Hopkins will have already produced the list or will produce the list. Note that given that any such list would presumably include applicant names, such documents may still be getting reviewed for FERPA. Johns Hopkins will aid Plaintiffs in identifying any such list in its productions.

RFP 23 – JHU is not withholding any non-privileged responsive documents that were returned based on search terms for overlapping RFPs.

Confirmed.

RFP 128, 129, 131 – JHU has undertaken or will undertake to “go get” responsive documents. The parties are tabling the issue of whether go-gets from the development office are appropriate or required at this time.

Johns Hopkins agrees to consider and discuss targeted “go gets” that Plaintiffs propose that are responsive to these requests; however, as discussed on our call this morning, it requires additional clarity from Plaintiffs on what they are seeking as those RFPs request “All Documents.” Johns Hopkins appreciates that Plaintiffs are tabling the issue of whether go-gets from the development office are appropriate or required at this time.

2nd Set RFP No. 3 – JHU has produced or will produce non-privileged responsive documents.

Confirmed that Johns Hopkins will undertake a “go get” and anticipates that future structured data productions will likely include any information responsive to this request.

3rd Set RFP 11 – JHU has conducted or will conduct a search of documents in the custody of admissions office custodians.

Johns Hopkins agrees to consider and discuss targeted go-gets or additional search terms that Plaintiffs propose.

3rd Set RFP 13 (Yale for Sale) – JHU will conduct a targeted search in response to this RFP.

Confirmed.

RFP 53 – JHU is not withholding any non-privileged responsive documents that were returned based on search terms for overlapping RFPs.

Confirmed.

RFP 150 – JHU is running agreed search terms and producing documents responsive to this request.

Confirmed.

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pronouns: she/her/hers

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**From:** Peter Bach-y-Rita <[pbachyrita@fnf.law](mailto:pbachyrita@fnf.law)>  
**Sent:** Tuesday, April 04, 2023 6:03 PM  
**To:** Mleczko, Monica <[Monica.Mleczko@ropesgray.com](mailto:Monica.Mleczko@ropesgray.com)>; Richard Cipolla <[rcipolla@fnf.law](mailto:rcipolla@fnf.law)>;  
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**Cc:** Musallam, Samer <[Samer.Musallam@ropesgray.com](mailto:Samer.Musallam@ropesgray.com)>; Park, Chong <[Chong.Park@ropesgray.com](mailto:Chong.Park@ropesgray.com)>; Bushofsky, Jeffrey J. <[Jeffrey.Bushofsky@ropesgray.com](mailto:Jeffrey.Bushofsky@ropesgray.com)>; McInerney, Elizabeth (Tolon) <[Elizabeth.McInerney@ropesgray.com](mailto:Elizabeth.McInerney@ropesgray.com)>; Hovie, Logan <[Logan.Hovie@ropesgray.com](mailto:Logan.Hovie@ropesgray.com)>; Brambila, Nicole <[Nicole.Brambila@ropesgray.com](mailto:Nicole.Brambila@ropesgray.com)>; Paladino, Tyler <[Tyler.Paladino@ropesgray.com](mailto:Tyler.Paladino@ropesgray.com)>; 568 Litigation <[568\\_Litigation@fnf.law](mailto:568_Litigation@fnf.law)>; [568\\_Litigation@gilbertlitigators.com](mailto:568_Litigation@gilbertlitigators.com)  
**Subject:** Re: Henry v. Brown Univ. et al. (N.D. Ill. No. 22-cv-00125) - Plaintiffs' Motion to Compel as to Johns Hopkins

Monica,

Further to my email below, Plaintiffs reserve all rights including the right to pursue additional discovery from the development office.

Peter Bach-y-Rita

*Associate*

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**From:** Peter Bach-y-Rita <[pbachyrita@fnf.law](mailto:pbachyrita@fnf.law)>  
**Date:** Tuesday, April 4, 2023 at 2:02 PM  
**To:** Mleczko, Monica <[Monica.Mleczko@ropesgray.com](mailto:Monica.Mleczko@ropesgray.com)>; Richard Cipolla <[rcipolla@fnf.law](mailto:rcipolla@fnf.law)>;  
[aellington@gilbertlitigators.com](mailto:aellington@gilbertlitigators.com) <[aellington@gilbertlitigators.com](mailto:aellington@gilbertlitigators.com)>

**Cc:** Musallam, Samer <[Samer.Musallam@ropesgray.com](mailto:Samer.Musallam@ropesgray.com)>, Park, Chong <[Chong.Park@ropesgray.com](mailto:Chong.Park@ropesgray.com)>, Bushofsky, Jeffrey J. <[Jeffrey.Bushofsky@ropesgray.com](mailto:Jeffrey.Bushofsky@ropesgray.com)>, McInerney, Elizabeth (Tolon) <[Elizabeth.McInerney@ropesgray.com](mailto:Elizabeth.McInerney@ropesgray.com)>, Hovie, Logan <[Logan.Hovie@ropesgray.com](mailto:Logan.Hovie@ropesgray.com)>, Brambila, Nicole <[Nicole.Brambila@ropesgray.com](mailto:Nicole.Brambila@ropesgray.com)>, Paladino, Tyler <[Tyler.Paladino@ropesgray.com](mailto:Tyler.Paladino@ropesgray.com)>, 568 Litigation <[568\\_Litigation@fnf.law](mailto:568_Litigation@fnf.law)>, [568\\_Litigation@gilbertlitigators.com](mailto:568_Litigation@gilbertlitigators.com) <[568\\_litigation@gilbertlitigators.com](mailto:568_litigation@gilbertlitigators.com)>  
**Subject:** Re: Henry v. Brown Univ. et al. (N.D. Ill. No. 22-cv-00125) - Plaintiffs' Motion to Compel as to Johns Hopkins

Monica,

Thank you for the meet and confer this morning. This email confirms that Plaintiffs will withdraw the motion to compel as to JHU; provided that you confirm that JHU has, or when it intends, to complete substantial production. I have provided some notes on the call and look forward to your input/additions:

RFP 20 – JHU will identify the deans list in the production so that Plaintiffs can evaluate the adequacy of the extant JHU custodian relating to donors. In the meantime, we can take this RFP off the table for purposes of the motion to compel.

RFP 23 – JHU is not withholding any non-privileged responsive documents that were returned based on search terms for overlapping RFPs.

RFP 128, 129, 131 – JHU has undertaken or will undertake to “go get” responsive documents. The parties are tabling the issue of whether go-gets from the development office are appropriate or required at this time.

2nd Set RFP No. 3 – JHU has produced or will produce non-privileged responsive documents.

3rd Set RFP 11 – JHU has conducted or will conduct a search of documents in the custody of admissions office custodians.

3rd Set RFP 13 (Yale for Sale) – JHU will conduct a targeted search in response to this RFP.

RFP 53 – JHU is not withholding any non-privileged responsive documents that were returned based on search terms for overlapping RFPs.

RFP 150 – JHU is running agreed search terms and producing documents responsive to this request.

Peter Bach-y-Rita

*Associate*

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**From:** Mleczko, Monica <[Monica.Mleczko@ropesgray.com](mailto:Monica.Mleczko@ropesgray.com)>

**Date:** Tuesday, April 4, 2023 at 12:50 PM

**To:** Peter Bach-y-Rita <[pbachyrita@fnf.law](mailto:pbachyrita@fnf.law)>, Richard Cipolla <[rcipolla@fnf.law](mailto:rcipolla@fnf.law)>,

[aellington@gilbertlitigators.com](mailto:aellington@gilbertlitigators.com) <[aellington@gilbertlitigators.com](mailto:aellington@gilbertlitigators.com)>

**Cc:** Musallam, Samer <[Samer.Musallam@ropesgray.com](mailto:Samer.Musallam@ropesgray.com)>, Park, Chong <[Chong.Park@ropesgray.com](mailto:Chong.Park@ropesgray.com)>, Bushofsky, Jeffrey J. <[Jeffrey.Bushofsky@ropesgray.com](mailto:Jeffrey.Bushofsky@ropesgray.com)>, McInerney, Elizabeth (Tolon) <[Elizabeth.McInerney@ropesgray.com](mailto:Elizabeth.McInerney@ropesgray.com)>, Hovie, Logan <[Logan.Hovie@ropesgray.com](mailto:Logan.Hovie@ropesgray.com)>, Brambila, Nicole <[Nicole.Brambila@ropesgray.com](mailto:Nicole.Brambila@ropesgray.com)>, Paladino, Tyler <[Tyler.Paladino@ropesgray.com](mailto:Tyler.Paladino@ropesgray.com)>, 568 Litigation <[568\\_Litigation@fnf.law](mailto:568_Litigation@fnf.law)>, [568\\_Litigation@gilbertlitigators.com](mailto:568_Litigation@gilbertlitigators.com) <[568\\_litigation@gilbertlitigators.com](mailto:568_litigation@gilbertlitigators.com)>  
**Subject:** RE: Henry v. Brown Univ. et al. (N.D. Ill. No. 22-cv-00125) - Plaintiffs' Motion to Compel as to Johns Hopkins

**[EXTERNAL SENDER]**

Peter,

Thanks again for your time earlier today. We appreciated the opportunity to work through the issues raised by Plaintiffs' Motion to Compel. We believe we resolved all outstanding discovery issues and confirmed that we are happy to work with Plaintiffs on any additional search terms or targeted go-gets Plaintiffs would propose for the 9 RFPs at issue for which parties did not negotiate search terms (1st RFP Nos. 20, 23, 53, 128, 129, 131; 2nd RFP No. 3; 3rd RFP Nos. 11, 13). We are happy to put together a summary of the meet-and-confer or respond to Plaintiffs' summary, but given the hour, we wanted to confirm that Plaintiffs will withdraw their motion to compel as to Johns Hopkins?

Thanks,  
Monica

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**From:** Peter Bach-y-Rita <[pbachyrita@fnf.law](mailto:pbachyrita@fnf.law)>  
**Sent:** Monday, April 03, 2023 1:52 PM  
**To:** Mleczko, Monica <[Monica.Mleczko@ropesgray.com](mailto:Monica.Mleczko@ropesgray.com)>; Richard Cipolla <[rcipolla@fnf.law](mailto:rcipolla@fnf.law)>; [aellington@gilbertlitigators.com](mailto:aellington@gilbertlitigators.com)  
**Cc:** Musallam, Samer <[Samer.Musallam@ropesgray.com](mailto:Samer.Musallam@ropesgray.com)>; Park, Chong <[Chong.Park@ropesgray.com](mailto:Chong.Park@ropesgray.com)>; Bushofsky, Jeffrey J. <[Jeffrey.Bushofsky@ropesgray.com](mailto:Jeffrey.Bushofsky@ropesgray.com)>; McInerney, Elizabeth (Tolon) <[Elizabeth.McInerney@ropesgray.com](mailto:Elizabeth.McInerney@ropesgray.com)>; Hovie, Logan <[Logan.Hovie@ropesgray.com](mailto:Logan.Hovie@ropesgray.com)>; Brambila, Nicole <[Nicole.Brambila@ropesgray.com](mailto:Nicole.Brambila@ropesgray.com)>; Paladino, Tyler <[Tyler.Paladino@ropesgray.com](mailto:Tyler.Paladino@ropesgray.com)>; 568 Litigation <[568\\_Litigation@fnf.law](mailto:568_Litigation@fnf.law)>; [568\\_Litigation@gilbertlitigators.com](mailto:568_Litigation@gilbertlitigators.com)  
**Subject:** Re: Henry v. Brown Univ. et al. (N.D. Ill. No. 22-cv-00125) - Plaintiffs' Motion to Compel as to Johns Hopkins

Thanks Monica, 10:30 am ET works for us.

Peter Bach-y-Rita  
*Associate*

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**From:** Mleczko, Monica <[Monica.Mleczko@ropesgray.com](mailto:Monica.Mleczko@ropesgray.com)>

**Date:** Monday, April 3, 2023 at 9:19 AM

**To:** Peter Bach-y-Rita <[pbachyrita@fnf.law](mailto:pbachyrita@fnf.law)>, Richard Cipolla <[rcipolla@fnf.law](mailto:rcipolla@fnf.law)>, [aellington@gilbertlitigators.com](mailto:aellington@gilbertlitigators.com) <[aellington@gilbertlitigators.com](mailto:aellington@gilbertlitigators.com)>

**Cc:** Musallam, Samer <[Samer.Musallam@ropesgray.com](mailto:Samer.Musallam@ropesgray.com)>, Park, Chong <[Chong.Park@ropesgray.com](mailto:Chong.Park@ropesgray.com)>, Bushofsky, Jeffrey J. <[Jeffrey.Bushofsky@ropesgray.com](mailto:Jeffrey.Bushofsky@ropesgray.com)>, McInerney, Elizabeth (Tolon) <[Elizabeth.McInerney@ropesgray.com](mailto:Elizabeth.McInerney@ropesgray.com)>, Hovie, Logan <[Logan.Hovie@ropesgray.com](mailto:Logan.Hovie@ropesgray.com)>, Brambila, Nicole <[Nicole.Brambila@ropesgray.com](mailto:Nicole.Brambila@ropesgray.com)>, Paladino, Tyler <[Tyler.Paladino@ropesgray.com](mailto:Tyler.Paladino@ropesgray.com)>, 568 Litigation <[568\\_Litigation@fnf.law](mailto:568_Litigation@fnf.law)>, [568\\_Litigation@gilbertlitigators.com](mailto:568_Litigation@gilbertlitigators.com) <[568\\_litigation@gilbertlitigators.com](mailto:568_litigation@gilbertlitigators.com)>

**Subject:** RE: Henry v. Brown Univ. et al. (N.D. Ill. No. 22-cv-00125) - Plaintiffs' Motion to Compel as to Johns Hopkins

**[EXTERNAL SENDER]**

Counsel – I am following up to confirm the time to meet and confer tomorrow morning. If 10:30 am ET works for you, I can circulate a calendar with a dial-in.

Best,  
Monica

**Monica Mleczko**  
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**From:** Mleczko, Monica <[Monica.Mleczko@ropesgray.com](mailto:Monica.Mleczko@ropesgray.com)>

**Sent:** Friday, March 31, 2023 7:00 PM

**To:** Peter Bach-y-Rita <[pbachyrita@fnf.law](mailto:pbachyrita@fnf.law)>; Richard Cipolla <[rcipolla@fnf.law](mailto:rcipolla@fnf.law)>; [aellington@gilbertlitigators.com](mailto:aellington@gilbertlitigators.com)

**Cc:** Musallam, Samer <[Samer.Musallam@ropesgray.com](mailto:Samer.Musallam@ropesgray.com)>; Park, Chong <[Chong.Park@ropesgray.com](mailto:Chong.Park@ropesgray.com)>; Bushofsky, Jeffrey J. <[Jeffrey.Bushofsky@ropesgray.com](mailto:Jeffrey.Bushofsky@ropesgray.com)>; McInerney, Elizabeth (Tolon) <[Elizabeth.McInerney@ropesgray.com](mailto:Elizabeth.McInerney@ropesgray.com)>; Hovie, Logan <[Logan.Hovie@ropesgray.com](mailto:Logan.Hovie@ropesgray.com)>; Brambila, Nicole <[Nicole.Brambila@ropesgray.com](mailto:Nicole.Brambila@ropesgray.com)>; Paladino, Tyler <[Tyler.Paladino@ropesgray.com](mailto:Tyler.Paladino@ropesgray.com)>; 568 Litigation <[568\\_Litigation@fnf.law](mailto:568_Litigation@fnf.law)>; [568\\_Litigation@gilbertlitigators.com](mailto:568_Litigation@gilbertlitigators.com)

**Subject:** RE: Henry v. Brown Univ. et al. (N.D. Ill. No. 22-cv-00125) - Plaintiffs' Motion to Compel as to Johns Hopkins

Counsel – we are in receipt of your below email. We are available 10:30 am ET Tuesday to meet and confer. If that time does not work, please let us know your availability Tuesday morning.

Best,  
Monica

**Monica Mleczko**  
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**Sent:** Friday, March 31, 2023 6:19 PM  
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**Subject:** Re: Henry v. Brown Univ. et al. (N.D. Ill. No. 22-cv-00125) - Plaintiffs' Motion to Compel as to Johns Hopkins

Counsel,

This email is to respond to your letter dated March 28, 2023. We hope our collective efforts will help narrow the issues to be resolved by the Court and will permit Plaintiffs to withdraw the motion as to JHU with respect to those RFPs that we can agree upon. **Please let us know when you can meet and confer on Monday or Tuesday next week.**

First, we note that Plaintiffs' motion might have been avoided (at least in part) as to JHU if, rather than waiting until after the MTC was filed to contact us on March 24, 2023, JHU had provided a response to Bob Gilbert's February 28, 2023 email concerning the RFPs. Our understanding remains that JHU did not dissociate itself from Sarah Kirkpatrick's March 2 email stating that Defendants were standing on their original written refusals to produce documents.

We also have a disagreement as to the number of Meet and Confers Local Rule 37.2 requires. On top of our individual meets and confer, by our count, we previously had 6 Global Meet and Confers on Plaintiffs' RFPs, 4 Meet and Confers on Search Terms. This is sufficient. The Court has made clear on several occasions that the parties should not meet and confer endlessly:

THE COURT: We've got to get done with all of this stuff. Here's why it's in your interest to do that. I set the discovery schedule, and I'm pretty sure I told you at the time that's the discovery schedule. And if it takes you, you know, 24 months to get – you know, to negotiate over the shape of the table and that leaves you a month and a half to do, you know, 250 depositions, then you're going to have a real busy month and a half, just to put it in stark terms. Dec. 21, 2022 Tr. at 12:24-13:6.

THE COURT: We've got to – there's a deadline that's in place; it's less than two weeks from now. In fact, it's only barely more than a week from now regarding substantial completion of production, and to some extent, we're still talking about the shape of the table here, and that's not a good thing, and so we are going to talk about these things today. And if that means that – you know, that you're not going to have, you know, three more four-hour meet and confers with the other side, then, okay, we're just putting the fast-forward button on. Feb. 23, 2023 Tr. at 7:12-21.

To the specific points raised in your letter and discussed on our call, we respond as follows, using the headers from your letter:

**1st RFP Nos. 22, 126, 127, 132 and 2nd RFPs Nos. 1, 4.**

We understand that, notwithstanding your prior objections, JHU will produce responsive documents to these requests and has or “will continue to run” the search terms negotiated for these RFPs. We appreciate the clarification.

**1st RFP Nos. 20, 23, 128, 129, 131, 2nd RFP No. 3, and 3rd RFP Nos. 11, 13**

Your letter states that you have produced responsive documents to these requests, to the extent that they are identified by search terms negotiated for other related RFPs. That is not sufficient. Just because we did not negotiate search terms for these requests does not mean JHU has no obligation to identify responsive documents to these requests. Indeed, one part of the reason search terms are not negotiated for each request is because not every request is the type that is susceptible to search terms.

**Please confirm that, for each of these RFPs where there are no agreed upon search terms, JHU undertook, or will undertake, a diligent and adequate search to “go get” the responsive documents and will not rely on the parties’ negotiated search terms for other RFPs.**

**Endowment-related requests (1st RFP Nos. 53, 150)**

It is not clear whether JHU is standing on its objection regarding RFP 53. JHU states that “documents responsive to RFP No. 53 also have been or will be produced” but only because they are responsive also to RFP No. 150. **Please confirm whether JHU is standing on its objections or will undertake, a diligent and adequate search to “go get” the responsive documents in response to RFP No. 53.**

Next, notwithstanding its prior objections, JHU confirms that it is running the agreed-upon search terms for RFP 150 and identifying and producing responsive documents. We appreciate the clarification.

**Lobbying-related RFP: (1<sup>st</sup> Set RFP 83)**

Notwithstanding its prior objections, JHU appears to be agreeing to run the agreed upon search terms and produce responsive documents. We appreciate that clarification.

**Articles/events cited in the complaint (1st RFP Nos. 88, 98, 103, 113, 114, 115, 116, 117)**

For RFPs (113, 114, 115, and 117), we appreciate the clarification that JHU will run the relevant search terms and produce responsive documents. We appreciate the clarification.

For RFPs (88, 98, 103, 116), we understand that JHU has run the requested search terms but found no responsive documents. We appreciate the clarification.

**Obligation to Identify Responsive Documents Beyond Search Terms.**

We also wanted to remind you of your obligations under the federal rules to go beyond search terms when producing responsive documents. *See, e.g., Albert v. Lab. Corp. of America*, 536 F. Supp. 3d 798 (W.D. Wash. 2020) (parties should “collect and produce electronically store evidence that is known to a party to be responsive to a discovery request or relevant to the subject matter of the action whether it was identified as

responsive by the search protocols the parties adopted”); *Raine Group LLC v. Reign Capital, LLC*, 2022 WL 538336 (S.D.N.Y. Feb. 22, 2022) (“an ESI protocol and search terms work in tandem with the parties’ obligations under the Federal Rules and do not replace a party’s independent obligation to produce” responsive documents); *SEC v. Keener*, 2021 WL 4990955, (S.D. Fl. Jul. 27, 2021) (parties always have an “obligation to produce responsive documents in compliance with Federal Rule of Civil Procedure 34, an obligation it cannot avoid by delegating the selection of search terms to either the requesting party or the Court”).

In tandem, we think it is clear that JHU must produce documents from non-custodial sources within the Development Office and elsewhere at JHU. **Please advise whether JHU has searched and produced documents from non-custodial sources within the Development, President, and other Offices.**

### **Next Steps**

Of course, to confirm your representations, we need to actually review the produced documents. Please apprise us when we can expect production of all responsive documents that JHU has not yet produced and were due pursuant to Court-ordered deadline on March 3, 2023. As a group, it appears that Defendants have produced roughly 1/2 of the total documents produced in this matter *after* that deadline, which makes it impossible for Plaintiffs to assess compliance. While Plaintiffs do not excuse JHU’s failure to certify substantial completion of production by the Court’s deadline, **we require a representation as to when JHU will achieve substantial completion for Plaintiffs’ First Set of RFPs, including all items above.**

If you will respond affirmatively, promptly and in writing to the bold points above, we will withdraw the Motion to Compel as to JHU with respect to those RFPs where we have reached an agreement. After we have had an opportunity to review your response to this email, we will confirm the remaining scope of Plaintiffs’ Motion to Compel as to JHU.

Best,

Peter Bach-y-Rita

*Associate*

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*Admitted in California Only*

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**From:** Mleczko, Monica <[Monica.Mleczko@ropesgray.com](mailto:Monica.Mleczko@ropesgray.com)>

**Date:** Friday, March 31, 2023 at 1:28 PM

**To:** Peter Bach-y-Rita <[pbachyrita@fnf.law](mailto:pbachyrita@fnf.law)>, Richard Cipolla <[rcipolla@fnf.law](mailto:rcipolla@fnf.law)>, Hope Brinn <[hbrinn@bm.net](mailto:hbrinn@bm.net)>, Steven Magnusson <[smagnusson@gilbertlitigators.com](mailto:smagnusson@gilbertlitigators.com)>, [aellington@gilbertlitigators.com](mailto:aellington@gilbertlitigators.com) <[aellington@gilbertlitigators.com](mailto:aellington@gilbertlitigators.com)>, [568\\_Litigation@gilbertlitigators.com](mailto:568_Litigation@gilbertlitigators.com) <[568\\_Litigation@gilbertlitigators.com](mailto:568_Litigation@gilbertlitigators.com)>, 568 Litigation <[568\\_Litigation@fnf.law](mailto:568_Litigation@fnf.law)>, [rlitan@bm.net](mailto:rlitan@bm.net) <[rlitan@bm.net](mailto:rlitan@bm.net)>, Robert Gilbert <[rgilbert@gilbertlitigators.com](mailto:rgilbert@gilbertlitigators.com)>

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**Subject:** RE: Henry v. Brown Univ. et al. (N.D. Ill. No. 22-cv-00125) - Plaintiffs' Motion to Compel as to Johns Hopkins

**[EXTERNAL SENDER]**

Counsel – I am resending the below in case this email is not going through (I got some bounce backs).

Best,  
Monica

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**Subject:** RE: Henry v. Brown Univ. et al. (N.D. Ill. No. 22-cv-00125) - Plaintiffs' Motion to Compel as to Johns Hopkins

Counsel,

We are following up on our March 28 letter and request to meet and confer. We are available Tuesday (4/4) morning—please let us know if there's a time then that works.

Best,  
Monica

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**Subject:** Henry v. Brown Univ. et al. (N.D. Ill. No. 22-cv-00125) - Plaintiffs' Motion to Compel as to Johns Hopkins

Counsel,

Please see the attached letter for Johns Hopkins.

Best,  
Monica

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March 28, 2023

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Re: *Henry et al. v. Brown University et al.* (N.D. Ill. No. 22-cv-00125)

Counsel:

On behalf of Johns Hopkins University (“Johns Hopkins”), we write regarding Plaintiffs’ Motion to Compel filed on March 21, 2023 [ECF No. 331]. Plaintiffs have mischaracterized the meet and confer process in their motion. Johns Hopkins, along with the other Defendants, has made clear that its participation in the global meet-and-confer process was subject to its individualized objections—especially given Johns Hopkins’ unique circumstances. Specifically, as Plaintiffs are aware, Johns Hopkins joined the 568 Group only *three weeks* before the original complaint was filed. In addition to the global meet-and-confers, Johns Hopkins separately met with Plaintiffs on three occasions. Plaintiffs neither raised, nor did the parties have detailed discussions regarding, the specific RFPs raised by Plaintiffs’ motion in any of the three meet-and-confer sessions. Contrary to Plaintiffs’ Statement of Compliance, Plaintiffs have not met and conferred with Johns Hopkins regarding these discovery issues as required by Local Rule 37.2.

Not only do Johns Hopkins’ productions all comply with the Court’s discovery orders, but Johns Hopkins has been running *all* negotiated search terms across the agreed-to custodians for the applicable date range and is producing all resulting responsive, non-privileged documents *notwithstanding Johns Hopkins’ objections*. In other words, Plaintiffs already have a substantial portion of the relief they seek in their motion, rendering any order from the Court on those RFPs unnecessary as to Johns Hopkins. For the remaining RFPs at issue, Plaintiffs did not propose and, therefore, the parties did not negotiate any search terms. Many of these RFPs, however, overlap with RFPs for which Johns Hopkins has run negotiated search terms. Had Plaintiffs met and conferred with Johns Hopkins prior to filing the motion to compel, as they are required to do pursuant to Local Rule 37.2, it would have become clear that the motion to compel is unnecessary and inaccurate as to Johns Hopkins.

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- 2 -

March 28, 2023

As a result, Plaintiffs should withdraw the motion to compel as to Johns Hopkins. Rather than unnecessarily burdening the Court, we propose scheduling a call this week to meet and confer on any remaining issues raised by your motion that you may believe to be outstanding with respect to Johns Hopkins.

To facilitate the conversation, below please find a summary of how Johns Hopkins has already responded to the RFPs at issue.

**1. Donor/development-related requests (1<sup>st</sup> RFP Nos. 20, 22, 23, 126, 127, 128, 129, 131, 132; 2<sup>nd</sup> RFP Nos. 1, 3, 4; 3<sup>rd</sup> RFP Nos. 11, 13)**

- a. Johns Hopkins has run and will continue to run the search terms negotiated for 1<sup>st</sup> RFP Nos. 22, 126, 127, 132 and 2<sup>nd</sup> RFPs Nos. 1, 4. To date, it has produced, and will continue to produce, any non-privileged, responsive documents. Moreover, the substantial completion deadlines for the 2<sup>nd</sup> and 3<sup>rd</sup> RFPs have not yet passed and any motion to compel based on those RFPs is unquestionably premature. In addition, as you likely know, these RFPs call for documents that have a higher risk of containing personal information protected from disclosure by law, and Johns Hopkins must undertake the laborious process of reviewing and redacting documents to meet its statutory obligations under FERPA, as well as other privacy requirements. That process is ongoing and Johns Hopkins is beginning to produce such redacted documents this week.
- b. For a substantial number of these RFPs (1<sup>st</sup> RFP Nos. 20, 23, 128, 129, 131, 2<sup>nd</sup> RFP No. 3, and 3<sup>rd</sup> RFP Nos. 11, 13), Plaintiffs did not propose and, therefore, the parties did not negotiate any search terms. Nonetheless, documents responsive to these RFPs also have been or will be produced where they are non-privileged and responsive to the other RFPs related to Donor/development-related requests that were associated with negotiated search terms, such as the broad requests at 1<sup>st</sup> RFP Nos. 126 and 127.

**2. Endowment-related requests (1<sup>st</sup> RFP Nos. 53, 150)**

- a. For RFP No. 53, Plaintiffs did not propose and, therefore, the parties did not negotiate search terms. Nonetheless, documents responsive to RFP No. 53 also have been or will be produced where they are non-privileged and responsive to RFP No. 150. Furthermore, Johns Hopkins directs Plaintiffs to publicly available financial

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Edward Normand  
Robert D. Gilbert  
Robert E. Litan

- 3 -

March 28, 2023

information available on Johns Hopkins' website regarding Johns Hopkins' endowment, which includes information responsive to RFP No. 53.

- b. For RFP No. 150, Johns Hopkins has run and will continue to run the negotiated search terms. To date, it has produced non-privileged, responsive documents and anticipates producing additional non-privileged, responsive documents. Johns Hopkins' production to date includes information about its endowment and other related financial documents.

**3. Lobbying-related requests (1<sup>st</sup> RFP No. 83)**

- a. Johns Hopkins has run and will continue to run the negotiated search terms. To date, there have been no documents that hit on the negotiated search terms. To the extent there are non-privileged, responsive documents that do hit on these search terms going forward, Johns Hopkins will produce them.

**4. Articles/events cited in the complaint (1<sup>st</sup> RFP Nos. 88, 98, 103, 113, 114, 115, 116, 117)**

- a. For half of these RFPs (113, 114, 115, and 117), Johns Hopkins has run and will continue to run the negotiated search terms. To date, it has produced, and will continue to produce, any non-privileged, responsive documents.
- b. For the other half (88, 98, 103, 116), Johns Hopkins has run and will continue to run the negotiated search terms. Unsurprisingly given that the RFPs are based on allegations largely unrelated to Johns Hopkins, to date, there have been no documents that hit on these negotiated search terms. To the extent there are non-privileged, responsive documents that do hit on these search terms going forward, Johns Hopkins will produce them.

In closing, Johns Hopkins reiterates that Plaintiffs' Motion to Compel as to Johns Hopkins is inappropriate, does not comply with the Local Rules of this Court, and should be withdrawn.

Sincerely,

/s/ Samer M. Musallam

Samer M. Musallam